UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
WOOD, WILLIAM H

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _25 January 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3 and 5-22_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,3 and 5-22_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Claims 1, 3 and 5-22 are pending and have been examined.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in

this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e))..

2.   Claims 1, 3 and 5-22 are rejected under 35 U.S.C. 102(e) as being

anticipated by **O'Neill** (USPN 6,832,373).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it

constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C.

102(e) might be overcome either by a showing under 37 CFR 1.132 that any

invention disclosed but not claimed in the reference was derived from the

inventor of this application and is thus not the invention "by another," or by

an appropriate showing under 37 CFR 1.131.

Claim 1

O'Neill disclosed a mobile services network comprising:

a mobile electronic device *(figure 1C, element 104; column 7, lines 23-29)*;

a management server *(figure 1C, element 132)*;

an update package repository *(figure 1C, element 133; column 10, lines

63-64)*; and

a generator for generating an update package used in updating firmware

in the mobile electronic device from a first version to a second version *(figure

1C, element 102)*, the update package comprising encoded difference

information and a shift region list that identifies at least one region of the first

version of firmware and an associated offset *(column 3, line 63 to column 4, line

25)*, wherein the first version is modified to correspond with the shift region list

in the update package, and the encoded difference information is generated to

comprise the differences between the second version and the modified first

version *(column 3, line 63 to column 4, line 25; shift region and offset correspond*

*to **O'Neill**'s use of and instructions for how to use existing code, "second*

plurality of digital information sequences" of the resident code; encoded

difference information corresponds to new information that must be added or

removed from the original, "a first plurality of digital information sequences" from

the updated operating code, and further difference information is found column

21, lines 25-40, literal information incorporated).

Claim 3

O'Neill disclosed the network according to claim 2 wherein the update

packages are populated into the update package repository *(figure 1C, element*

133; column 10, lines 63-64).

Claim 5

O'Neill disclosed the network according to claim 1 wherein the management

server and the update package repository are communicatively coupled *(figure*

1C).

Claim 6

O'Neill disclosed the network according to claim 1 wherein the generator with

a partial predictive mapping preprocessor and the update package repository

are communicatively coupled *(figure 1C).*

Claim 7

O'Neill disclosed the network according to claim 1 wherein the generator with

a partial predictive mapping preprocessor is located at a location remote from

the update package repository _(figure 1C)_.

Claim 8

O'Neill disclosed the network according to claim 1 wherein the mobile

electronic device comprises:

      a non-volatile memory _(column 27, lines 56-59)_;

      a random access memory _(column 16, line 4)_; and

      security services _(column 7, lines 36-37)_.

Claim 9

O'Neill disclosed the network according to claim 8 wherein the non-volatile

memory _(figure 8B)_ comprises:

      an update agent _(column 4, line 46; column 27, lines 56-59)_;

      a firmware and real-time operating system _(column 33, line 33)_;

      a download agent _(column 27, lines 56-59)_; and

      a boot initialization _(column 28, line 2)_.

Claim 10

O'Neill disclosed the network according to claim 9 wherein the non-volatile

memory further comprises an operating system layer *(column 33, line 33)*.

Claim 11

O'Neill disclosed the network according to claim 9 wherein the non-volatile

memory further comprises an end-user-related data and content unit *(column

7, line 26)*.

Claim 12

O'Neill disclosed the network according to claim 9 wherein the mobile

electronic device performs the following:

      downloading an update package from the update package repository

(column 16, lines 26-28);

      rebooting *(column 16, line 36)*;

      executing the boot initialization *(column 16, line 36; column 28, line 2)*;

      determining whether an update process is needed *(column 9, line 21)*; and

      invoking the update agent *(column 16, lines 37-39)*.

Claim 13

O'Neill disclosed the network according to claim 12 wherein the mobile

electronic device determines the need for an update process based on status

information _(column 9, line 21)._

Claim 14

O'Neill disclosed the network according to claim 12 wherein the mobile

electronic device invokes the update agent to execute the update process if it is

determined an update process is needed _(column 16, lines 37-39)._

Claim 15

O'Neill disclosed a method for generating an update package using an old

image and a new image of a firmware (column 8, lines 7-8) in a mobile services

network, the method comprising:

    creating a module map between modules in the old image and modules

in the new image of firmware _(column 4, lines 3-13; column 10, lines 65-37)_;

    creating a module map between modules in the old image and modules

in the new image of firmware _(column 4, lines 3-13)_;

    creating a shift region list _(column 4, lines 3-13)_; and

    generating an update package using information at least based on the

shift region list _(column 4, lines 3-13; additionally note, column 16, line 66 to_

column 17, line 19).

Further, refer to above rejection of newly amended claim 1 for corresponding
rejections of newly amended limitations of claim 15.

Claim 16

O'Neill disclosed the method according to claim 15 wherein the module map

comprises module locations and sizes in the old image of firmware and the new

image of firmware *(column 8, lines 33-37; column 19, lines 4-12, reuse and*

recycle specifically located and sized code/modules).

Claim 17

O'Neill disclosed the method according to claim 15 wherein creating the shift

region list comprises:

      identifying shift points within each module of the firmware, wherein the

shift points define shift regions *(column 19, lines 30-41)*;

      creating a first shift region list *(column 19, lines 30-41)*;

      modifying the first shift region list to include external shifts *(column 19,*

line 63 to column 20, line 5, different sections of the memory or storage); and

      creating a second shift region list *(column 19, lines 53-58)*;

Claim 18

O'Neill disclosed the method according to claim 17 wherein the method further

comprises consolidating adjacent shift regions having identical address

adjustments *(column 20, lines 5-15)*.

Claim 19

O'Neill disclosed the method according to claim 17 wherein the first shift

regions list comprises:

     shift regions correspond to modules in the old image of firmware *(column

19, line 6, "existing code version");

     sizes of the shift regions *(column 19, lines 30-41)*; and

     adjustment values correspond to the difference between a start location

of a module in the old image of firmware and the start location of the same

module in the new image of firmware *(column 20, lines 60-64)*.

Claim 20

O'Neill disclosed the method according to claim 19 wherein modifying the first

shift region list comprises:

     finding modules that changed size from the old image of firmware to the

new image of firmware *(column 20, lines 36-41)*;

adjusting address-based instructions in the old image of firmware using the adjustment value of the changed modules *(column 20, lines 36-41; column 20, lines 52-53)*;

identifying areas where new content was inserted into a module *(column 24, lines 37-63, DEF instruction)*;

defining the identified areas of new content as new shift regions *(column 24, lines 37-63, DEF instruction)*;

deleting the changed modules from the first shift list *(column 24, lines 37-63, DEF instruction)*; and

inserting the defined shift regions into the first shift list *(column 24, lines 37-63, DEF instruction; column 23, line 38 to column 24, line 36, HSH instruction)*.

Claim 21

O'Neill disclosed the method according to claim 18 wherein adjacent shift regions are consolidated if modules remain unchanged in the new image from the old image *(column 20, lines 11-15)*.

Claim 22

O'Neill disclosed the method according to claim 18 wherein the second shift region list is the result of consolidating shift regions in the modified first shift region list *(column 19, lines 53-58)*.

Response to Arguments

3.   Applicant's arguments filed 08 May 2007 have been fully considered but
they are not persuasive. Applicant argues **O'Neill** fails to disclose modifying
the first version to correspond to the shift region list and the encoded difference
information is generated to comprise the differences between the second
version and the modified first version.

These issues are found in **O'Neill**'s disclosure. First, as can be seen from
the cited portion (column 3, line 63 to column 4, line 25), **O'Neill** discloses a
first version (the "resident operating code") and a second version ("an updated
operating code"). The reference further states modifying the first version using
a shift region list ("an update package comprising an instruction set which
specifies how to generate the updated operating code utilizing at least a portion
of the second plurality of digital information sequences", these sequences being
part of the resident code). Finally, the reference states the encoded difference
information comprising the differences between the second version and the
modified first version (column 21, lines 25-40, using literal information to
augment the transformation to a modified version when necessary).

Having addressed applicant's concerns the rejections are maintained.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension

of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply

is filed within TWO MONTHS of the mailing date of this final action and the

advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Tuesday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock Jr. can be reached on (571)-272-3759. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained form either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see http://pair-direct.uspto.gov. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

/William H. Wood/
William H. Wood
Primary Examiner, Art Unit 2193
April 16, 2008